

**~~REGULATION 2.03 — Permit Requirements Non-Title V Construction and Operating~~
~~Permits and Demolition/Renovation Notices and Permit Requirements~~**
**REGULATION 2.03 Authorization to Construct or Operate; Demolition/Renovation
Notices and Permit Requirements**

Louisville Metro Air Pollution Control District
~~of Jefferson County~~
Jefferson County, Kentucky

Pursuant To: KRS Chapter 77 Air Pollution Control

Relates To: KRS Chapter 77 Air Pollution Control

Necessity And Function: KRS 77.180 provides that the Air Pollution Control Board may make and enforce all ~~needful~~ orders, rules, and regulations necessary or proper to accomplish the purposes of KRS Chapter 77. This regulation establishes the ~~_non-Title V-p~~District's ermit requirements for Permits to Construct and Operate and Demolition/Renovation Notices and Permits of the District.

**SECTION ~~1~~ 1 ~~Permits to Construct or Operate and Demolition/Renovation Notices and~~
~~Permit Requirements~~ Applicability**

1.1 Except as authorized under Regulation 2.02, section 5.8 of Regulation 2.16, and Section 7 of this regulation, no person may construct, reconstruct, modify or operate an affected facility or related air pollution control equipment without a permit issued by the District. ~~Insignificant activities are not required to obtain a construction permit under this regulation.~~

~~1.1.2~~ **1.2** ~~Determinations made under this regulation are valid until changes are made to the process operation equipment or air pollution control equipment and there is an increase of any air pollutant or the emission of a new air pollutant. If such changes are proposed, the owner or operator shall apply for the appropriate permits.~~

~~1.2~~ **1.2** ~~No person shall construct, reconstruct or modify an affected facility or related air pollution control equipment unless a permit to construct has been issued by the District, except as provided in the exemptions under Regulations 2.02 and 2.08.~~

~~1.2~~ **1.2** ~~No person shall operate any affected facility which is in compliance with all emission limiting regulations unless a permit to operate the affected facility and permits to operate~~

[If adopted, this would amend the July 2011 version of Regulation 2.03]

[Approved by the Policy Committee on February 20, 2013, for Public Review]

[Changes to Draft #2 are redlined and double underlined]

- ~~any related air pollution control equipment have been issued by the District and are currently in effect, except as provided in the exemptions under Regulation 2.02.~~
- ~~1.3 A written notice of demolition of a facility, as the term “facility” is defined in Regulation 5.04, must be submitted to the District prior to the commencement of the demolition, even if no asbestos is present.~~
- ~~1.4 A written notice of renovation of a facility, as the term “facility” is defined in Regulation 5.04, must be submitted to the District prior to commencement of the renovation, if material containing more than 1% asbestos by weight is present in the facility or on any facility component.~~
- ~~1.5 A permit issued by the District is required for any demolition or renovation project that disturbs material containing more than 1% asbestos by weight.~~

SECTION 2 Definitions

Unless otherwise specified, terms used in this regulation are defined in Regulation 1.02 Definitions.

SECTION 3 Asbestos Demolition/Renovation Notices and Permits

- 3.1 Applicability. This section applies to those processes and process equipment, roadways, and demolition or renovation activities regulated by Regulation 5.04 and Regulation 5.13.
- 3.2 “Facility” as used in this section is defined in Regulation 5.04.
- 3.3 A permit issued by the District is required for any demolition or renovation project that disturbs material containing more than 1% asbestos.
- 3.4 A written notice of demolition of a facility shall be submitted to the District no less than ten business days prior to commencement of demolition, even if no asbestos is present.
- 3.5 A written notice of renovation of a facility shall be submitted to the District no less than ten business days prior to commencement of renovation if material containing more than 1% asbestos will be disturbed in the facility or on any facility component.
- 3.6 A person may be subject to enforcement under KRS Chapter 77 for:
- 3.6.1 Demolishing or renovating a facility containing asbestos without a permit.
- 3.6.2 Demolishing or renovating a facility not in accordance with a permit issued by the District.

SECTION 4 ~~Non-Title V Permit Application for~~ Applications for Permits to Construction or and Operation

[If adopted, this would amend the July 2011 version of Regulation 2.03]

[Approved by the Policy Committee on February 20, 2013, for Public Review]

[Changes to Draft #2 are redlined and double underlined]

42.1 Applications for permits to construct or operate ~~required under Section 4~~ an affected facility shall be made on forms authorized ~~prepared~~ by the District.

4.2 ~~for such purpose and shall contain such information as the District may deem necessary for issuance of the permit.~~

~~2.2~~ Applications for construction permits shall include:

4.2.1 A certification ~~be~~ that the statements made in the application are true and complete, signed by a responsible official, and

~~the corporate president or his authorized agent; by an equivalently responsible officer in the case of an organization other than a corporation; in other cases, by the source owner or operator; or, in the case of a political subdivision, by the highest elected official of such subdivision. Such signature shall constitute personal affirmation that the statements made in the application are true and complete.~~

~~4.2.2.3~~ ~~The information submitted in the application shall:~~

~~2.3.1~~ ~~Include~~ An analysis of the characteristics, properties, and quantity of the air contaminants ~~taken~~ under maximum operating conditions.

4.3 An applicant shall, within the time period specified in writing by the District, provide additional information necessary to:

4.3.1 Determine, implement, or enforce an applicable requirement;

4.3.2 Supplement or correct an application; or

4.3.3 Address requirements that become applicable to the stationary source after the date an application was submitted, but before a permit is issued.

4.4 Failure to supply information required by the District may result in the denial of an application for a permit to construct or revocation of a stationary source's authority to operate an affected facility.

~~, and~~

~~2.3.2~~ ~~Be certified as to the accuracy of the submittal.~~

~~2.4~~ ~~Failure to supply information required or deemed necessary by the District to enable it to act upon the permit application shall result in denial of the permit.~~

~~2.4.5~~ 5 An application for a permit may include one or more affected facilities located at a single stationary source.

4.6 Insignificant activities shall be identified in the application, although they may be grouped by affected facility category. The application may exclude information that is not needed to determine which applicable requirements apply, and whether the insignificant activity is in compliance with applicable requirements. However, if the insignificant activity category

is subject to a restriction on the size or production rate of the affected facility, information regarding the size or production rate shall be included in the application. –

4.6.1 The sum of the potential emissions from all insignificant activities when added with the source's other potential emissions shall not exceed a major source threshold.

4.7 Trivial activities need not be listed in the application.

4.8 Stationary sources operating pursuant to Regulation 2.16 or 2.17 shall follow the application procedures in those regulations to obtain an operating permit.

4.9 Combined Permit to Construct and Operate. The District shall issue a combined permit to construct and operate an affected facility at the following stationary sources:

4.9.1 Stationary sources with a potential to emit less than:

4.9.1.1 100 tons per year of a regulated air pollutant;

4.9.1.2 10 tons per year of a hazardous air pollutant;

4.9.1.3 25 tons per year of combined hazardous air pollutants; and

4.9.1.4 100,000 tons per year of CO₂e.

~~provided that all are contained within a source. A person may apply for an amended permit to include new affected facilities provided that such new facilities are within the same source.~~

4.9.2 Issuance of a combined permit to construct and operate will terminate a previously issued permit to construct or operate covering the affected facility.

4.9.3 In the event a minor source becomes subject to Regulation 2.16 or 2.17, the combined permit to construct and operate shall function as the construction permit for the affected facilities.

SECTION ~~53~~ Non-Title V Application ~~Permit Review~~

~~3.5.1~~ After receipt of the permit application, the District shall determine if applicable emission standards and ambient standards are met.

~~As provided in Regulations 2.04, 2.05, 2.06, 5.11, 5.12 and 5.14, no permit shall be issued where it can be shown either through diffusion calculations or actual ambient air quality monitoring performed according to methods prescribed by the District, that the affected facility will prevent or interfere with the attainment or maintenance of local, state, or federal air quality standards.~~

~~3.5.2~~ ~~4.1~~ In cases where no emission standards have been prescribed by regulation, the District shall require the use of all available, practical, and reasonable methods to prevent and control air pollution.

~~3.5.32~~ Persons who consider themselves aggrieved by an order of the Board or a determination made by the District or the Board, may file a petition for an administrative hearing under

Regulation 1.19. An action on a permit includes the issuance, denial, modification, transfer, suspension, or revocation of a permit.

~~In the event any person or persons allege themselves to be adversely affected by a proposed or existing affected facility or other physical conditions, the District may afford such persons a hearing to determine whether a new permit to construct, operate, or demolish or renovate an affected facility should be issued or denied, or an existing permit should be revoked.~~

~~3.3 In the event any person or persons allege themselves to be adversely affected by the District deciding not to afford a hearing, the person or persons may request the Board to afford a hearing.~~

SECTION 4 Emission Density Provision

~~4.1 Except as allowed pursuant to section 4.2, the District shall not issue a permit for the construction or modification of an affected facility in an area having a radius of one mile and centered on the affected facility to be constructed or modified when:~~

~~4.1.1 The sum of particulate emissions from all sources emitting 25 tpy or more within the area, including the applicant, exceeds or would exceed 4,000 tpy.~~

~~4.1.2 The sum of sulfur dioxide emissions from all sources emitting 25 tpy or more within the area, including the applicant, exceeds or would exceed 8,000 tpy.~~

~~4.2 In those areas within which the densities cited in sections 4.1.1 or 4.1.2 above have been exceeded prior to the adoption of this regulation, the District may issue a permit for the construction of any new affected facility if the applicant can demonstrate through diffusion calculations that the affected facility will not prevent or interfere with the attainment or maintenance of the applicable particulate and sulfur dioxide ambient air quality standards.~~

~~4.3 In applying this regulation, the District shall give due consideration to the planned reductions of the other sources within the affected area in accordance with section 3.1.~~

SECTION ~~5~~6 Non-Title V Permit Issuance, Terms, Renewal and Transfer~~Conditions~~

~~6~~5.1 Permits issued shall be subject to the terms and conditions set forth and embodied in the permit as the District may deem necessary to insure compliance with its standards. Such terms and conditions may include maintenance and availability of records relating to operations which may cause or contribute to air pollution including periodic sampling of the affected facilities. All fees shall be assessed and paid in accordance with Regulation 2.08.

5.6.22 Acceptance of a permit shall denote agreement to the restrictions embodied in the permit and shall be binding upon the holder of the permit or compliance schedule.

65.3 Any ~~person who demolishes or renovates an affected facility containing friable asbestos, or any~~ owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this section or with the terms of any approval to construct or operate, or any owner or operator of a source or modification subject to this section who begins actual construction after the effective date of this regulation without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action as provided under KRS Chapter 77 Air Pollution Control.

65.4 ~~_____~~ Approval to construct, reconstruct, or modify an affected facility shall become invalid if:

5.6.434.1 ~~1~~ ~~_____~~ Construction is not commenced within 12 months after receipt of approval,

5.6.44.22 ~~_____~~ Construction is discontinued for a period of six months or more, or

5.6.44.33 ~~_____~~ Construction is not completed within a reasonable time.

65.5 The District may extend the time for construction following a satisfactory demonstration that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project - each phase must commence construction within 12 months of the projected and approved commencement date.

6.6 The owner or operator of a stationary source authorized pursuant to Regulation 2.03 to operate shall pay an annual fee and submit an annual permit certification on AP-500B signed by the responsible official. Authorization to operate may be withdrawn in accordance with Regulation 2.09 for failure to pay any fees or complete the permit certification by the deadline established by the District.

6.6.1 This, and any other certifications required in this regulation, shall state that:

"Based on information and belief formed after reasonable inquiry, I certify that the statements and information in this document are true, accurate, and complete."

6.7 The District may adjust individual permit terms to accommodate its inspection schedules of stationary sources. Fees for such permits shall be prorated to account for the adjusted term.

6.8 Permits or registrations may be transferred to a new owner or operator.

6.8.1 Stationary sources subject to Regulation 2.16 shall follow the transfer procedures in that regulation.

6.8.2 For all other stationary sources, a permit or registration may be transferred if:

6.8.2.1 A completed ~~transfer form~~ Form AP-100A or written statement containing a specific date for transfer of the permit has been submitted to the District,

6.8.2.2 The District determines that no other changes in the permit are necessary, and

6.8.2.3 The stationary source pays the applicable fees.

~~5.6.96~~ Approval to construct, reconstruct, modify, or operate any affected facility or to conduct an asbestos demolition or renovation abatement project ~~in an affected facility containing friable asbestos~~ shall not relieve the owner or operator of the responsibility to comply fully with all applicable District regulations and any other requirements under local, state, or federal law.

6.10 Banking permits are not subject to periodic renewal. A modified banking permit shall be issued pursuant to Regulation 2.12 after each banking transaction, when Emission Reduction Credits (ERCs) are deposited or removed.

SECTION 76 Construction or Reconstruction of Air Pollution Control Equipment

7.1 Stationary sources shall notify the District prior to constructing or reconstructing any air pollution control equipment. A permit is required to construct or reconstruct any air pollution control equipment that results in an increase of any air pollutant or the emission of a new air pollutant.

7.1.1 A stationary source may commence constructing or reconstructing an air pollution control device ten (10) days after submitting an application to construct, paying the applicable ~~filing application~~ fee, and notifying the District in writing of its intent to begin construction prior to the issuance of a construction permit.

7.1.2 The District shall review the application and notify the stationary source within sixty (60) days of receipt of the submittal that:

7.1.2.1 a construction permit issued by the District is not necessary for the project; or

7.1.2.2 a construction permit, including applicable fees, is required for the project.

7.1.2.3 In the event the District determines that a construction permit is required, the stationary source must suspend construction until a construction permit is issued.

7.2 Nothing in this section shall be construed as authorizing the construction or reconstruction of any air pollution control equipment that does not comply with federal, state, or District regulations.

SECTION 8 Relocated Sources

86.1 If a source in Jefferson County is relocated involving a change of address, the owner or operator shall obtain new permits for the source. Any existing affected facilities which are not modified or reconstructed (as defined in Regulation 1.02) will continue to be treated as existing affected facilities except as specified in section 68.2.

86.2 If the sum of the potential emissions of the relocated affected facilities at the new location is of sufficient size to qualify as a major source under Regulation 2.04 or 2.05, then all the relocated affected facilities shall be treated as new affected facilities.

86.33 Any source which locates in Jefferson County from outside Jefferson County shall be treated as a new source.

SECTION 97 Reconstructed Sources

97.1 An existing affected facility, upon reconstruction as defined in Regulation 1.02, becomes a new affected facility regardless of any change in emission rate. If an owner or operator proposes to replace part or all of an existing affected facility, the owner or operator shall notify the District of the proposed replacement before installation or construction begins. The District will determine after receipt of the appropriate information whether the proposed replacement constitutes reconstruction. The District's determination shall be based on:

97.1.1 The fixed capital cost of the replacements in comparison to 50% of the fixed capital cost that would be required to construct a comparable entirely new facility,

97.1.2 The estimated life of the facility after the replacement compared to the life of a comparable and entirely new facility,

97.1.3 The extent to which the components being replaced cause or contribute to the emissions from the facility, and

97.1.4 Any economic or technical limitations on compliance with new source performance standards which are inherent in the proposed replacements.

97.2 Nothing in this regulation is intended to limit the applicability of Regulation 2.04 or 2.05. ~~shall not apply to a reconstructed source unless the reconstruction would also result in a major modification as defined in Regulation 2.04 or 2.05 respectively~~

SECTION 10 Recordkeeping Requirements

Stationary sources shall retain all records required by the District or an applicable requirement, including all required monitoring data and supporting information, for at least 5 years from the date of the monitoring, sampling, measurement, report, or application.

Version 8 Draft #2

April 17, 2013

[If adopted, this would amend the July 2011 version of Regulation 2.03]

[Approved by the Policy Committee on February 20, 2013, for Public Review]

[Changes to Draft #2 are redlined and double underlined]

278 Adopted v1/4-19-72; effective 4-19-72; amended v2/9-1-76, v3/6-13-79, v4/11-16-83,
279 | v5/12-17-86, v6/12-15-93, v7/07-20-11, v8 / / .
280
281